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VENETIA K. CARPENTER-ASUI
A Law Corporation

VENETIA K. CARPENTER-ASUI 6901
Haseko Center
820 Mililani Street, Suite 812
Honolulu, Hawaii 96813
Telephone: (808) 523-6446
Facsimile: (808) 523-6727

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

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Attorney for Plaintiff
PETER G. SEBALA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

PETER G. SEBALA,	)	Civil No. 04-00404 SPK-LEK
vs.	)	PLAINTIFF'S CONCISE
JAMES G. ROCHE , DR.,	)	STATEMENT OF FACTS IN
SECRETARY OF THE AIR	)	OPPOSITION TO
FORCE,	)	DEFENDANT'S MOTION FOR
Defendants.	)	SUMMARY JUDGMENT;
)	)	DECLARATION OF PETER
)	)	SEBALA; DECLARATION OF
)	)	COUNSEL; EXHIBITS A- G;
)	)	CERTIFICATE OF SERVICE
)	)	Hearing
)	)	Date: January 27, 2006
)	)	Time: 10:00 a.m.
)	)	Judge: Honorable Samuel P. King
)	)	Trial
)	)	Date: February 7, 2006

**PLAINTIFF'S RESPONSE TO DEFENDANT'S CONCISE STATEMENT
OF FACTS**

Pursuant to Local Rule 56.1, of the Local Rules of Practice for the United States District Court for the District of Hawaii, Plaintiff Peter G. Sebala hereby submits his Concise Statement of Facts in opposition to defendant's motion for summary judgment.

PLAINTIFF'S RESPONSE TO DEFENDANT'S STATEMENT OF FACTS

1. Undisputed.
2. Undisputed.
3. Undisputed.
4. Undisputed.
5. Undisputed.
6. Undisputed.
7. Undisputed.
8. Undisputed.
9. Unknown. Insufficient information available to confirm.
10. Unknown. Insufficient information available to confirm.
11. Undisputed.
12. Undisputed.
13. Undisputed.
14. Undisputed.
15. Undisputed.
16. Undisputed.
17. Undisputed.

PLAINTIFF'S CONCISE STATEMENT OF FACTS TO DEFENDANT

1. On 8/27/49 Plaintiff was born. Def c.s. ex 1; decla Pl.
2. From 1970 to 1971, w/ 1 year & 7 months of creditable service, Pl served in the U.S. Army & Vietnam War & received an honorable discharge. Pl was awarded the National Defense Service Medal, Vietnam Service Medal w/ a Bronze Service Star, Republic of Vietnam Campaign Medal, & Sharpshooter (Rifle). Ex C; decla Pl; Def c.s. ex 1.
3. From 1967 to 1994 Pl was employed by Oahu Sugar Company for 27 years working in tire maintenance & preventative maintenance. Pl also held the position of Tire Shop Leader with duties including repair and maintenance of tires on all vehicles and equipment in the shop and field; performing scheduled maintenance on all vehicles and equipment including oil and filter changes; inspecting and lubricating chassis components; & conducting training of new employees. Def c.s. ex 5; Decla Pl.
4. On 1/23/02 Pl received a full-time 1-year appointment as a Mobile Equipment Servicer WG-5806 working at the Hickam Air Force Base. Def c.s. ex 1; Decla Pl.
5. On 8/11/02 Pl's SF-50 rated Pl's performance as a temporary Mobile Equipment Servicer WG-5806 as "[w]ork performance at an acceptable level of competence." Ex B.
6. On 10/3/02 Pl's a mid-year Civilian Progress Review Worksheet rated his work successfully, w/ a written comment by his immediate supervisor Randall Nunes which stated, "Good Job!" Def c.s. ex 3.
7. From 3/14/03 to 3/20/03 Pl's Mobile Equipment Servicer WG-5806 position, as a "permanent" status, was posted as a Vacancy Announcement. Def c.s. ex 4.



8. Pl applied for the “permanent” Mobile Equipment Servicer WG-5806 position & submitted his resume, which included the work he performed in the “temporary” position right before the Vacancy Announcement was posted. Def c.s. ex 5.

9. In a letter dated 4/7/03 Pl was notified that Christopher Vargas, age 25, was hired for the permanent Mobile Equipment Servicer position instead of Pl, age 53. Def c.s. ex 6.

10. Upon receiving Supervisor Nunes letter dated 4/7/03, Pl telephoned Supervisor Nunes who told Pl that he “hired the most qualified person for the job.” Decla Pl.

11. On 5/4/03 Christopher Vargas, age 25, began working in the permanent Mobile Equipment Servicer WG-5806 position. Def c.s. #11.

12. April-May 2003, Pl’s co-worker Michael Oyadomori asked Supervisor Nunes why he hired Christopher Vargas who was inexperienced for the Mobile Equipment Servicer WG-5806 position. Supervisor Randall Nunes replied “[w]ell the guy younger and he’s married, got family.” Ex F p42,

13. In 4/03 Pl reported age discrimination to: Tonya Stels - Hickam Air Force Base Hiring Office, Federal Job Information 541-2791 (recording), Department of Veterans Affairs, Hickam Air Force Base Civilian Personnel Employment Office “Greg”, Hickam Air Force Base Civilian Personnel Employment Office “Beverly”, Supervisor Randall Nunes, Work Links Veterans Outreach Program, Melody Hudson, Labor & Hiring Office, Gill Hough, Senator Daniel Akaka, Senator Daniel Inouye, Congressman Ed Case, Congressman Neil Abercrombie. Ex D; Decla Pl.

14. On 3/16/05 Judge Leslie E. Kobayashi issued an Order Denying Def's Motion to Dismiss based on "untimeliness." Ex E; Decla Pl.

15. Pl was 53 years of age on 5/4/03 when Christopher Vargas age 25 was hired for the permanent Mobile Equipment Servicer WG-5806 job instead of Pl. Def c.s. ex 1; Decla Pl.

16. Pl was qualified for the position of Mobile Equipment Servicer on the date he was not hired 5/4/03. Decla Pl.
Def c.s. ex 5.

17. Def did not issue any disciplinary action to Pl while he was employed from 1/23/02-1/22/03. Decla Pl.

18. Def failed to provide any specific example of Pl not being hired due to "prior work experience," "instances of insubordination," and "low performance feedback." Def msj p9-10.

19. The only document Def submitted as evidence of Pl not being hired Supervisor Nunes affidavit dated 9/27/05. Def c.s. ex 7.

20. Supervisor Nunes was aware on 5/4/03 that Plaintiff was an older person than Christopher Vargas. Def c.s. ex 7.

21. Plaintiff did not require training when he was hired for the 1-year Mobile Equipment Servicer job.

22. Defendant did require training by Ace Suares when he was hired for the permanent Mobile Equipment Servicer job. Ex F.

[I certify that there are 868 words in this concise statement according to the software program on my computer.]

DATED: Honolulu, Hawaii, January 9, 2006.



VENETIA K. CARPENTER-ASUI
Attorney for Plaintiff
PETER G. SEBALA